REMARKS

Claims 1-24 are pending in the present application. In the Office Action mailed March 10, 2005, the Examiner rejected claims 1, 2, 8, 9, 17, and 19 under 35 U.S.C. §102(b) as being clearly anticipated by Sorkin (USP 6,380,508). The Examiner next rejected claims 3-7, 10-13, 15, 16, and 20-24 under 35 U.S.C. §103(a) as being unpatentable over Sorkin in view of Roth (USP 5,026,966).

The Examiner rejected claim 1 under 35 U.S.C. §102(b) as being anticipated by Sorkin stating that "In the Sorkin patent head means 24 is pivotable via a pivot point 28 in movement." Applicant does not necessarily disagree that Sorkin discloses a torch having a pivot point; however; that is not what is called for in claim 1. Claim 1 calls for, in part, a plasma torch having a torch body and a torch head having a restricted pivotable connection to the torch body. That is, the torch head is connected to the torch body to allow restricted pivoting therebetween. Such a construction is not disclosed in Sorkin.

Sorkin, as shown in Fig. 1, discloses a cutting torch 20 having a handle 22, a head 24, and a pivot 28. Sorkin states that "[t]he pivot 28 is illustrated, in FIG. 1, as being a protrusion extending outwardly from the forward portion of the head 24" and that "[t]he protrusion 28 should have a suitable size and shape so as to be matingly received within the pivot point 15 formed on the wall 13 of pocket 12." Col. 7, lns. 3-17. That is, the torch, as a whole, pivots relative to pocket via the pivot point. However, there is no rotation of handle 22 with the head 24 when the handle and head are connected. Sorkin neither teaches nor suggests that head 24 includes a restricted pivotable connection to handle 22. Pivot 28 is simply a nipple that extends from torch 20 to engage a workpiece to facilitate alignment of the torch therewith. Furthermore, pivot 28 of Sorkin does not restrict the rotation of torch 20 disclosed therein. That is, it is the shape and depth of pocket 12 formed in a work surface that restricts rotation of torch 20. Referring to Fig. 5, Sorkin states that "[t]he space 40 provides a sufficient area in which the cutting head 24 can pivot within the pocket 12." Col. 8, lns. 16-18. That is, movement of cutting head 24 is restricted relative to a workpiece and by the shape of pocket 12. This is not what is called for in claim 1.

Claim 1 calls for, in part, a plasma torch having a torch head having a restricted pivotable connection to a torch body. There is no disclosure in Sorkin that cutting head 24 is pivotably, let alone restricted pivotably, connected to handle 22. Additionally, as head 24 is generally inaccessible when positioned in space 40, allowing any movement between handle 22 and head 24 would be undesirable. Such a construction would allow movement of handle 22 without movement of head 24. That is, an operator would not be able to control the position of head 24 if

it were pivotably connected to handle 22. As such, that which is called for in claim 1, and those claims that depend therefrom, is not disclosed in Sorkin.

The Examiner also rejected claim 17 under 35 U.S.C. §102(b) as being anticipated by Sorkin. Claim 17 calls for a plasma torch having a handle portion and a work tip portion and means for providing restricted adjustment of a position of the work tip portion relative to the handle portion when the work tip portion is connected to the handle portion. As stated above with respect to claim 1, there is no disclosure in Sorkin for any adjustment between the cutting head and the handle portion of the cutting torch disclosed therein. Understandably, when the pivot 28 of the cutting torch 20 of Sorkin is disposed in the corresponding pivot point 15 of pocket 12, an operator is allowed to adjust the position of cutting head 24 only through movement of handle 22. That is, when cutting head 24 is positioned in pocket 12, an operator is prevented from adjusting cutting head 24 but through the rotation of handle 22. Clearly, cutting head 24 of Sorkin is fixedly connected to handle 24. In fact, the cutting head must be fixedly connected to the handle of Sorkin's torch. That is, for operation, a user is to pivot the torch relative to the pivot point in the pocket wall. The handle of the torch is used by the operator to facilitate this pivoting of the torch. There is no disclosure in the reference that teaches or suggests that this pivotable action is achieved by rotating the head without rotating the handle. Moreover, one skilled in the art would recognize that requiring an operator to pivot the torch without rotating the handle would expose the operator to harm. As such, that which is called for in claim 17, and those claims that depend therefrom, is not disclosed in Sorkin.

The Examiner rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over Sorkin in view of Roth stating that "Sorkin teaches the claimed subject matter except for the movement paramcters and the ratchet connection of the head and torch body" and that "Roth is applied for showing in fig. 6 means for indexing and adjusting the movement of a torch head in a pivotable way to the torch carriage." Applicant respectfully disagrees.

Applicant does not necessarily disagree that Roth discloses a multi-positionable linkage assembly usable with a cutting device, however; that is not what is claimed. Claim 10 calls for a plasma cutting assembly having a plasma torch electrically connected to a power source and a multi-position head ratchetably connected to the plasma torch. Fig. 6 of Roth shows a rotatable arm (7) connected between a cutting device (1) and a carriage (4). Carriage (4) is not a power source nor is arm (7) a plasma torch. Roth states that "[t]he carriage 4 has according to the invention at least one hose holder 18 on its upper side, through which are guided a burner hose and a cable 19." Col. 5, lns. 14-16. Roth further states that "FIG. 2 shows furthermore an electrical connection 20 for the drive of the carriage 4." Col. 5, lns. 16-18. As shown in Fig. 2 of

Roth, cutting device 1 includes a handle 34 extending therefrom. A cable 19 extends from cutting device 1 via handle 34, passes through hose holder 18 attached to carriage 4, and extends therefrom to a gas and power supply. A such, carriage 4 is not a power source electrically commutable to a plasma torch as called for in claim 10.

Referring to Fig. 7, Roth states that "[a] retaining ring 31 is constructed at the free end of the arm 7" and that "[a] heat protective shield 10 connected to a burner head 9 can be placed into said retaining ring 31." Col. 5, lns. 63-67. Roth further states that "[t]he arm 7 is adjusted such that a burner nozzle 32 can be placed onto the surface 33 of the tub 5 without the heat protective shield 10 or the retaining ring 31 contacting the surface 33 of the tub." Col. 5, ln. 66 through col. 6, ln. 1. Roth continues, "a handle of the cutting device 1 is identified with reference numeral 34." Col. 6, lns. 8-9. That is, Roth discloses a cutting device that is connectable to the carriage assembly disclosed therein. The carriage assembly, through arm 7, facilitates multi-positioning of the cutting device relative to the work piece to be cut. This is not what is called for in the present claim.

Claim 10 calls for, in part, a multi-positionable head ratchetably connected to a plasma torch. With respect to the plasma torch, Roth discloses a plasma torch similar to the plasma torch disclosed in Sorkin. That is, a plasma torch having a cutting head fixedly connected to the plasma torch. As shown in Fig. 7 of Sorkin, as stated above, the cutting head is movable relative to ring 31 to maintain an operational distance between burner head 9 and tub surface 33. Sorkin does not teach, suggest, or disclose that burner head 9 is multi-positionable or ratchetably connected to plasma torch 34 as called for in claim 10. Combining the plasma torch of Sorkin with the carriage of Roth merely places the plasma torch of Sorkin in the retaining ring taught by Roth. Such a combination does not teach or suggest the assembly called for in claim 10 as neither reference, individually or in combination, teaches, discloses, or suggests a multi-position head ratchetably connected to a plasma torch.

The Examiner, in setting forth the 35 U.S.C. §103(a) rejection asserts that "...it is considered a matter of design choice that would have been obvious to the artisan , to effect the head movement via a ratchet means in lieu of the means set forth in Sorkin or Roth." Neither Sorkin nor Roth teaches, discloses, or suggests, a ratchetable connection as called for in claim 10. Both Sorkin and Roth teach that which is known. That is, a plasma torch having a head portion fixedly connected thereto. Additionally, it is well established that in order to support a prima facie obviousness rejection, the Examiner has the initial burden of proving that the references include a suggestion or motivation to combine the reference, a reasonable expectation of success, and the references teach or suggest all of the claim limitations. See MPEP §2142. The Examiner

has failed to satisfy this burden. As such, claim 10, and those claims that depend therefrom, are patentably distinct over the art of record.

It is further noted that the Examiner has failed to address claim 14. Accordingly, it is presumed that claim 14 is allowable.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-24.

Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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